IN THE HIGH COURT OF UTTRAKHAND
AT NAINITAL

Writ Petition No. 6527 (SS) of 2001
(old no. 27725/1995)

Hira Ballabh Joshi,
S/o Sri Krishna Joshi,
R/o Chandak,
District – Pithoragarh. **.....Petitioner.**

Versus

1. State of U.P. through Principal Secretary, Department of Medical Health and Family Welfare, Civil Secretariat, Lucknow.
2. Director General, Medical health and Family Welfare, Swasth Bhawan, Lucknow.
3. Chief Medical Officer, Pithoragarh.
4. State of Uttarakhand through Secretary, Department of Medical Health and Family Welfare, Government of Uttarakhand, Dehradun.
5. Director General, Medical Health and Family Welfare, Uttarakhand, Dehradun.

.....Respondents.

Hon'ble M.M. Ghildiyal, J

Heard Sri Manoj Tiwari, learned counsel for the petitioner, Sri N.P. Shah, learned counsel for State of Uttarakhand and Smt. Beena Pandey, learned standing counsel for State of U.P.

Learned counsel for the parties have submitted that the controversy raised in the present writ petition has already been decide by Allahabad High Court vide judgment and order dated 22.08.2000 in writ petition no. 33812 of 1995 (Devi Dutt Pathak Vs. State of U.P. and others).

The relevant paragraphs of the aforesaid judgment are reproduced as under:

"The petitioner was initially appointed as paramedical worker in Venereal Disease Treatment cum Survey Unit, Pithoragarh under Government Order dated 08.10.1965 and 28.12.1965 wherein the concerned posts were created.

The petitioner contends that pay scales were revised under Government Order dated 13.09.1982. The grievance of the petitioner is that para medical workers, serving in the aforesaid units of venereal disease established by the Government in the District – Pithoragarh and Uttarkashi were omitted and not given benefit of revision of pay scale as was conferred upon similarly situated similarly situated other employees of the department under aforesaid Government Order dated 13.09.1982

XXX

A perusal of Government Order dated 13.09.1982 annexure 6 of the writ petition, indicates that Para Medical Workers in Leprosy Control Unit were given benefit of revision of pay scale. The said Annexure indicates that Para Medical Workers in Venereal Disease Unit were omitted.

The other contention of the petitioner is that since the Lab Technician, Compounder and Pharmacist in Venereal Disease Survey Unit, Pithoragarh, who were working in lower pay scale, were given the benefit of revision of pay scale providing higher emoluments as compared to the petitioner, who were earlier in higher pay scale, the petitioner could not be and should not have been discriminated. They should also be given the benefit of similar revision in their pay scale.

XXX

Needless to mention that the respondents cannot be permitted to act upon arbitrarily or on their whims while considering the revision of pay scale inasmuch as they cannot pick and choose of the persons in the same cadre who are working in identical situation condition may not be treated differently".

In the present case also, petitioner was appointed as Medico Social Worker in Venereal Disease Treatment cum Survey Unit, Pithoragarh and the matter of petitioner's pay revision is still pending.

Learned counsel for the petitioner has submitted that no provision was made for pay revision of the staff serving in the Venereal Disease Treatment cum Survey Unit established in Districts – Pithoragarh and Uttarkashi. The pay scales for the posts created under the BCG Programme, National Leprosy Control Programme etc. were revised by means of Government Order dated 13.09.1982.

Respondents have filed counter affidavit. In para 10 of the counter affidavit, respondents have submitted that State Government has not taken any decision uptill today and it is respondent no. 1, who can take decision in the matter, as policy matter could be decided by the State Government.

In view of the above, petitioner is directed to make representation before respondent no. 4 for redressal of his grievance within a period of three weeks from today and respondent no. 4 shall pass appropriate order on the representation of the petitioner within a period of three weeks from the date of production of certified copy of this order along with representation.

With this direction, writ petition as well as all the pending applications are disposed of. No order as to costs.

(M.M. Ghildiyal, J)

July 26, 2007
SKS